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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,969	06/25/2003	Guohua Chen	ARC 3135 R1	6463
23377 7590 04/24/2008 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891				
EXAMINER				
SILVERMAN, ERIC E				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
04/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,969

Applicant(s)

CHEN ET AL.

Examiner

Eric E. Silverman, PhD

Art Unit

1618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 7-26, 29-34, 36, 38, 39, 44-56, 59, 60 and 105-124 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 7-26, 29-34, 36, 38, 39, 44-56, 59, 60 and 105-124 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/18/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7 – 23, 29 – 34, 36, 38, 39, 44, 45, 47 – 56, 59, 60, and 105 – 121 remain rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/238185 to Dunn et al. for reasons of record and those discussed below.

Response to Arguments

Applicants' arguments have been fully considered, but are not persuasive. Applicants argue that Dunn does not teach gels, whereas instant claims are drawn to gel compositions. In response, Applicants are directed to page 7, line 19 – 30 of the Dunn reference which teaches that the composition is administered as a solution but forms a gel after injection. Also, Example 5 teaches a composition that gels rapidly

after injection. Accordingly, Applicants' allegation that there is no gel taught in Dunn (see page 14 of the response) has no force, and is not persuasive.

Claims 24 – 26, 46, 55, and 56 remain are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/238185 to Dunn et al and in further view of 07/74650 for reasons of record and those discussed below.

Response to Arguments

Applicants' remarks have not addressed this rejection. As such, it is concluded that Applicants agree that this rejection is appropriate and that the claims are unpatentable for reasons of record.

Claims 122—124 remain rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/238185 to Dunn in view of US 6,130,200 to Brodbeck for reasons of record and those discussed below.

Response to Arguments

Applicants' arguments have been fully considered, but are not persuasive. Applicants argue that the artisan would not modify Dunn with the teachings of Brodbeck because, according to Applicants, Dunn is drawn to solutions and not to gels, and thus Dunn would not be modified by Brodbeck which teaches gels. In response, Applicants are directed to page 7, line 19 – 30 of the Dunn reference which teaches that the composition is administered as a solution but forms a gel after injection. Also, Example 5 teaches a composition that gels rapidly after injection. Accordingly, Applicants' allegation that there is no gel taught in Dunn (see page 14 of the response) has no force. On the contrary, the artisan, recognizing that Dunn teaches a gel, would use the

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techniques taught in Bordbeck to reduce the initial burst of the gel that will be formed when Dunn's composition is administered. Applicants' arguments, being predicated on a misunderstanding of the Dunn reference, is not persuasive.

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric E. Silverman, PhD whose telephone number is (571)272-5549. The examiner can normally be reached on Monday to Thursday 7:00 am to 5:00 pm and Friday 7:00 am to noon.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on 571 272 0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric E Silverman, PhD/
Examiner, Art Unit 1618